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CONTENTS

CURRENT TOPICS

A Compensation (Defence) Act Case

A FARMER'S claim against the Air Ministry in respect of 135½ acres of farmland was heard by the General Claims Tribunal on 19th July and is fully reported in the *Estates Gazette* of 13th August. The claim, which was under s. 2 (1) (*b*) of the Compensation Defence Act, 1939, arose out of the requisitioning of the land by the Air Ministry in 1940 and 1941 and the levelling of the earthworks around the land in order to make an emergency landing ground. The cost of replacing the earthworks and other reinstatement was agreed at £4,500, and it was argued that they were essential to shelter the land and cattle from the wind and salt spray. The Ministry had contended that it was sufficient to erect concrete posts, connected by six strands of wire, where the earthworks had been, and it was argued that it was not reasonably practicable to restore the land to its previous condition. A previous decision of the tribunal, *Cameron* v. *Air Ministry* (1947), *Estates Gazette*, p. 154, in which the tribunal decided that, in an appropriate case, where the land could not be physically restored, the compensation should be such as would financially make good the loss to the claimant, was cited. A valuer for the Ministry gave evidence that at the material date the value of the requisitioned area to the owner-occupier was £2,735 and its open market value was £2,300 to £2,400. The tribunal awarded the claimant £2,735 and ordered the Ministry to pay the costs.

The Rent Tribunals

DECISIONS by the rent tribunals in England and Wales since their establishment now number 27,624, and the rent has been reduced by an average of 30 per cent. in 18,722 cases, according to a Ministry of Health statement published on 18th August. In only 332 cases has the rent been increased. In 4,038 cases the existing rent was approved; 12,420 cases were withdrawn or not entertained. A total of 3,315 cases have now been brought forward for reconsideration and have resulted in 1,656 increases in rent and 242 decreases. The figures for the separate tribunals show Paddington still at the head with 7,651 cases, followed by Stepney with 2,251, Hammersmith with 1,945, St. Pancras with 1,345, Islington with 1,153, Leeds with 1,028, Brighton with 1,024, Manchester with 892, Coventry with 818, Bournemouth with 733, Birmingham East with 772 and Birmingham West with 665 cases. There are now 79 tribunals, and for the three months ending on 30th June, 1949, 2,876 new cases were referred, as against 4,913 for the previous three months.

Land Charges Acquired by Central Land Board in the case of Registered Land

A READER has recently drawn attention to the somewhat uncertain position of a purchaser of registered land in respect of which a charge may have been created in favour of the Central Land Board under s. 74 of the Town and Country Planning Act, 1947. Subsection (5) of that section provides that such a charge is deemed to be a Class A land charge, but is silent concerning the position where the land is registered. Should the purchaser of registered land, therefore, search in the Land Charges Register for a charge under s. 74? It is considered that in view of ss. 59 (2), (5) and 110 (7) of the Land Registration Act, 1925, such a search is unnecessary. By s. 59 (2) registration of a land charge as defined in subs. (5) "shall, where the land affected is registered, be effected only by registering a notice, caution or other prescribed entry under this Act." Moreover, under s. 110 (7) of the 1925 Act a purchaser of registered land shall not be affected with notice of any land charge which can be protected under the Act by lodging or registering a caution or other notice "or be concerned to make any search therefor."

Infant Road Casualties

LAST year 627 children under seven years of age were killed on the roads; 4,500 persons of all ages were killed and 150,000 were injured, many of them permanently. The public is now only too familar with the tragic statements by judges that no amount of money can compensate for the lifetime deprivation of the joy of living. The tolls of war and of disease are dwarfed beside this unending drain on life and health, but the public conscience, if any, still fails to give itself adequate expression in action. The voluntary work of the Pedestrians' Association in putting forward their case deserves more attention than it gets. A recent report by the Association on the Safety of Young Children on the Roads attributes the present situation to the inability of mothers to give sufficient attention to young children because more women go out to work and more time is taken in shopping and household duties, the lack of suitable playgrounds, the number and speed of motor vehicles, the inadequate standard of care on the part of drivers, and the fact that there are nearly a million more children under seven years than there were ten years ago. The constructive suggestions of the Pedestrians' Association to remedy the present evils should be closely studied by the Home Office, the Ministries of Health, Transport and Education, local authorities, parents and drivers.

REVOCATION AND MODIFICATION OF PLANNING PERMISSIONS—I

THE powers to revoke and modify planning permissions given by s. 21 of the Town and Country Planning Act, 1947, are now being exercised by local planning authorities. The exercise of the power is naturally most disturbing to an owner as it will upset, probably with little, if any, prior warning, his calculations for the future of his land, and may injure him financially.

Any discussion of this subject falls into two parts :—

(*a*) The procedure for revoking or modifying the permission.

(*b*) The provisions relating to compensation.

The procedure for revoking or modifying a permission is set out in s. 21 of the Act and it is worthy of note that there are no regulations to govern it as, for instance, in the case of tree preservation orders.

The local planning authority exercise the power by making an order. The order may be made if it appears to the authority that it is expedient, having regard to the development plan and to any other material considerations. At present it is unlikely that any authority will in fact have an operative development plan ; the power can nevertheless be exercised before a plan has become operative, but in this case the authority must have regard to any directions given by the Minister of Town and Country Planning as to what should be included in the plan and to the provisions which in their opinion will be required to be included therein for the proper planning of the area (s. 36).

The permissions which can be revoked or modified under these powers are—

(1) interim development permissions granted after the 21st July, 1943, preserved by s. 77 of the Act (s. 77 (3)) ;

(2) permissions granted since 1st July, 1948, on applications made under the Act.

In both cases the powers must be exercised (*a*) if the permission is for a change of use, before the change is commenced ; (*b*) if the permission is for building or other operations, before the operations are *completed*.

The powers do not apply to permission granted by a general or special development order, e.g., the General Development Order, 1948 ; the procedure in this case is dealt with later.

Section 21 provides that no order shall take effect unless it is confirmed by the Minister. This raises an interesting point which has occurred in practice and upon which the section is strangely silent. A, who is in possession of a building licence, has not yet started to build his house when he receives from the planning authority notice of the submission to the Minister of an order revoking his planning permission. Does the order, when confirmed by the Minister, take effect from the date of its making or from the date of its confirmation ? If the former, clearly A should not proceed with his building because he will receive no compensation for it ; if the latter, he might well take a risk and start building in the hope that the house might be up by the time the order is confirmed (which, if he objects to it, is likely to be at least two or three months ahead). Even if he has not completed the building by the time of confirmation, the authority might be unwilling to face the expense of compensating him for what he had done and might allow him to go on. The better opinion would seem to be that the order is effective from the date it was made. The words of the section are that no order shall take effect " unless " (not " until ") it is confirmed, and the wording of subs. (3) referred to in the next paragraph supports this. This, however, would operate unfairly where there was any delay between the making of the order and service of notice of its submission to the Minister, since an owner might carry out work in this period in ignorance of the order and yet be unable to claim compensation for it.

It has been mentioned above that an order may be made in respect of a permission for building or other operations at any time before those operations have been completed. The section (subs. (3)) provides, however, that the order shall not affect so much of the operations as have been carried out before the exercise of the powers given by the section, and, if the authority wish to have the part carried out removed, they will have to make a further order under s. 26 of the Act.

No model form of order has been issued.

Having made their order, the authority must submit it to the Minister for confirmation and serve notice on the owner and the occupier concerned and any other person who in their opinion will be affected by the order ; in the many cases where a permission is issued to a prospective purchaser he will no doubt be a person who will be served with notice. Except that the notice must give a period, not less than twenty-eight days, within which objections must be submitted to the Minister, the Act is silent as to its contents, nor is any form prescribed by regulations. This has the rather startling result that it is not incumbent on the authority to inform a person affected of their reasons for making the order and he may not learn of these until he hears the authority's case at an inquiry. The effect of an order is, however, equivalent to a refusal of planning permission or, in the case of a modifying order imposing conditions, the grant of a conditional permission ; under art. 5 (4) of the General Development Order, 1948, an authority are required to state their reasons for a refusal or conditional permission, and the recipient of a notice under s. 21 which is silent as to reasons has, therefore, reasonable grounds for asking the authority to state their reasons for making the order.

The section is, however, equally unsatisfactory when it comes to objections. The recipient of a notice (the words " objector " and " objection " are not mentioned in the section) has simply *to require* the opportunity of being heard by a person appointed by the Minister, and just as he may be in ignorance of the authority's reasons, so he may leave the Minister and the authority in ignorance of the grounds of his objection. It would seem reasonable, however, especially where an authority give their reasons, that an objector should, in his letter to the Ministry, give his reasons, just as in a planning appeal he gives his grounds of appeal in Form T.C.P. 201, though here again there is no statutory requirement that he should do so. The Ministry will send to the authority copies of any objections made.

It may well be found that some revocation orders are inspired by the Ministry themselves, and the Ministry may issue a direction under s. 100 (2) of the Act compelling a planning authority to make an order ; such a direction may be made after consultation with the authority, and there is no need to consult in any way with the owner concerned. In any such case the person concerned still has his right to an inquiry or hearing when the order is made by the authority (the Minister may also make an order himself, in which case notice of his proposal is served on the persons concerned, who can require an inquiry or hearing into the proposal). Though the odds may in such a case seem to be weighted against an objector, it may be worth while proceeding to an inquiry ; some of the Ministry's New Towns Orders, when strenuously opposed, were at least modified.

As is well known, while an applicant for planning permission can appeal against the refusal of a permission, adjoining and neighbouring owners have no appeal against the grant of a permission (e.g., to establish an industrial process in a residential road) which may affect their property adversely. Their remedy is to endeavour to persuade the planning authority to revoke the permission or to persuade the Minister to make them do so or to revoke it himself ; speed is clearly essential and the best course would no doubt be to approach the Ministry and the authority at the same time ; if it is too late to make a revocation order, as may easily happen where the development is a change of use, similar persuasion might result in an order being made under s. 26 of the Act.

It is likely that a permission would only be upset if there were a very strong case against it.

The grounds upon which any particular order may best be attacked will naturally depend upon the circumstances of each case, but will probably fall under two broad heads :—

(*a*) That the order is unreasonable because the development should be permitted: this line of argument will be the same as that which would have been used on a planning appeal in respect of the same development.

(*b*) Hardship.

The hearing will take the form of a local inquiry, or private hearing, conducted by one of the Ministry's inspectors (in the case of an inquiry the Ministry will probably ask the authority to give notice of it to other neighbouring owners who may be affected), and the procedure will be on the following lines :—

(1) The inspector opens the inquiry and takes a note of the persons who wish to be heard.

(2) The authority open their case and call their witnesses.

(3) The objectors open their cases and call their witnesses.

(4) Any other persons who wish to be heard are heard.

(5) The authority reply.

The inspector will then visit the site.

In due course the Minister's decision will be issued and, if the order is confirmed, the planning authority will receive a copy of the order with the Minister's sealed confirmation endorsed. Here is another peculiar omission from the section : it says nothing about serving notice of the confirmation of the order upon the persons affected, who may thus be left in ignorance that the order has taken effect. It is suggested that, in practice, the planning authority should notify any such person by sending him a copy of the confirmed order. Nor does the section contain any limitation, as in the case, e.g., of compulsory purchase orders, on the right of an aggrieved person to question the validity of any orders made under it in the High Court.

This completes the review of the s. 21 procedure and it remains to consider the revocation or modification of permission granted by a development order. This may be effected in two ways :—

(1) By the Minister's revoking or amending the order.

(2) By the making of a direction by the Minister, or by the local planning authority with the approval of the Minister, under art. 4 of the General Development Order, 1948.

Method (1) is straightforward and calls for no comment. The effect of a direction under method (2) is that application must thereafter be made in the usual way to the local planning authority for planning permission to carry out the development specified in the direction; the direction in itself is therefore fairly harmless. A direction may relate to certain classes of permitted development in a particular area or to particular permitted development on a specified property. In the first case the direction has to be advertised in a local paper and in the *London Gazette*, while in the second case notice has to be served on the owner and occupier of the property. There is no opportunity for objection but, owing to the limited effect of a direction, this is no hardship. Any similar direction which was in force under the General Interim Development Order, 1946, immediately before 1st July, 1948, is continued in force (art. 4 (5) of the 1948 Order).

How can a prospective purchaser find out whether he is likely to be affected by any order or direction ?

Orders under s. 21 which take effect have to be registered in Pt. III (*c*) of the local land charges register. It has been suggested above that an order, when confirmed, takes effect from its date, and the wise course seems, therefore, to register it when it is made, and not to wait until it is confirmed. It may, however, not be necessary to register it until confirmed, and in any case a resolution to make an order may be passed some time before the order is made. Enquiry 11 on the form of approved enquiries, Con. 29B, will elicit information as to whether a county council have made, or passed a resolution to make, such an order. Unfortunately, no similar enquiry appears on the other two forms of approved enquiries, 29A and 29C, and, having regard to the serious effect which a s. 21 order may have, any reader acting for a purchaser of land with the benefit of a planning permission not carried out is strongly advised to insert an additional enquiry on the point on these two forms.

Any direction under art. 4 of the General Development Order, 1948, should be disclosed in reply to Enquiry 11 on 29A and 29C, and to 8 on 29B.

The compensation provisions will be discussed in the second part of the article.

R. N. D. H.

MINERAL DEVELOPMENT COMMITTEE REPORT—II

(*Concluded from p. 535, ante*)

THE future organisation of mineral development, as recommended by the report of the Mineral Development Committee, is set out in Chapter XI of the report. It is stated that although the various functions and duties described in the report as being necessary for the Government to assume in regard to mineral development are both technical and administrative in character, the background is essentially technical. Hence, applied and specialist knowledge and experience must provide the basis of any permanent arrangements. The committee are adamant as to the need of centralising the work under one permanent organisation, properly constituted, with the requisite staff, and with specific aims and functions. Each of the steps which they propose are, they say, inter-dependent, and form an integral part of a unified and positive policy. In the view of the committee it would not be practicable otherwise to secure the proper co-ordination of effort throughout the various mineral industries which the committee have examined; neither could adequate technical direction and efficiency be achieved if the responsibilities were divided between different departments.

From the administrative point of view, says the report (para. 430), the proposed Mineral Development Commission cannot operate satisfactorily unless it is responsible to a single Minister who, the committee conclude, should be the Minister of Fuel and Power. He should be specifically answerable in Parliament for the Commission, for laying down the broad lines of policy to be pursued and, among other things, for the appointment and conditions of service of its members.

It is acknowledged (para. 431) that if these conclusions are accepted they will involve an adjustment of present Government administrative arrangements due to the division between different departments of statutory responsibilities for mineral production on the one hand and "end use" control on the other, while responsibility for mineral development, as set out in the Ministry of Fuel and Power Act, 1945, rests with the Ministry of Fuel and Power. In an earlier part of the report (para. 331) it is pointed out that on the outbreak of war in 1939 those departments interested in the "end uses" of minerals and mineral products took powers under the Emergency Powers Act in relation to production and distribution. The division of responsibility then made and, broadly speaking, in force to-day is briefly as follows :—

Coal, petroleum, oil shale, lignite and peat	Ministry of Fuel and Power.
Metalliferous minerals (and a few others)	Ministry of Supply.
Non-metalliferous minerals (with some exceptions)	Board of Trade.
A few minerals used mainly for building materials and road-making	Ministry of Works and Ministry of Transport.

The Ministry of Fuel and Power Act, 1945, provided for a restoration of the 1939 administrative position, but, for the first time, it included mineral development as a responsibility of government. Nevertheless, since 1945, the war-time position has been more or less maintained largely on account of the economic position of the country which has necessitated the continuance of many of the war-time arrangements. While, therefore, statutorily the Ministry has been given a long-term interest in mineral development, other departments acting as production authorities are dealing with the mining industries concerned and not the Ministry of Fuel and Power. The interest of those other departments is largely short-term in character and inevitably excludes long-term considerations, and thus comprehensive technical knowledge. This could only be remedied if one department had the overall responsibility (para. 333).

The following is a summary of what the committee suggest (para. 433) the chief functions of the Mineral Development Commission should be :—

(*a*) General responsibility for the management of property rights in minerals on behalf of the nation.

(*b*) Establishment and operation of a national mineral resources survey.

(*c*) The fixing of conditions of working of existing leases where necessary in the national interest.

(*d*) Administration and supervision of all matters concerning mineral leases.

(*e*) Extension of the mineral survey to include exploration.

(*f*) Provision of technical advice for Government departments and mining concerns.

(*g*) Research into methods of prospecting, mining, mineral extraction and dressing, and into new uses for minerals and their products.

(*h*) Granting financial assistance to private mining undertakings.

(*i*) Setting up organisations to operate mineral projects where expedient in the national interest.

(*j*) Making recommendations to the Minister for amalgamation of undertakings necessary to secure the most economic and efficient development of mineral resources.

As regards relationship with the Ministry of Town and Country Planning the report (para. 436) summarises the position by saying that development plans which include provision for existing or potential mineral workings should be prepared after information has been supplied by the Commission, as distinct from production departments as at present. Scheduling an area for mineral working should normally imply that development permission will not be withheld if the Commission is prepared to grant new prospecting licences or leases, or to confirm or renew existing ones. The Minister should consult with the Minister of Fuel and Power if the mineral undertaking or the Commission contest the conditions of working fixed to development permissions, and the latter Minister would then act in the same capacity as existing production departments for this purpose.

In the committee's opinion the Commission should assume some, if not all, of the functions of the Ministry of Town and Country Planning of obtaining technical information about MDC mineral deposits. A great proportion of the Ministry's information at present can only come direct from the industry, whereas the Commission will have more specific and positive duties and powers in respect of exploration, testing and research. A mineral survey will be of little lasting value unless it is comprehensive, and clearly this must be the responsibility of a technical body properly constituted for the purpose (para. 438).

Where the use of land for mineral working makes it desirable that agreement should be reached between the Commission and the Central Land Board there should be collaboration between these two bodies (para. 439).

As regards the organisation of the Commission in England and Wales, the report states (paras. 444 and 445) that three or four regional offices, each with a small staff, will have to be set up at an early stage to establish contact with offices of existing mineral owners, and immediate steps should be taken to prevent the destruction of valuable records owing to the removal of incentive from mineral owners consequent upon the acquisition of development value in minerals.

Among the first tasks of the Commission, also, should be to plan the exploration and approve reasonable proposals as to the proper development of the new discovery of potash in Yorkshire, to which reference is made in the report, and one of the recommendations of the committee is that unless nationalisation of mineral rights is implemented in a very short time the mineral rights in specified potash-bearing minerals should be nationalised separately in the same manner as petroleum mineral rights under the Petroleum (Production) Act, 1934 (para. 447 and Recommendation 8).

On financial matters the committee state (para. 451) that the functions that they have assigned to the Commission will necessitate considerable expenditure, particularly in the first few years, on exploratory work undertaken as part of the mineral survey, and that while information so obtained will ultimately prove to be a source of revenue, it will obviously be necessary to risk expenditure on projects which will produce negative results. They add that a good deal of preliminary work will be required before the real future economic significance of some of our mineral industries can be assessed.

It is to be observed with regard to the report in general that though it speaks of nationalisation of mineral rights its proposals in this respect amount to no more than what was described as unification of mineral royalties under the Coal Act, 1938. It does not make any proposals with regard to the nationalisation of the mining industries associated with the working of MDC minerals. The proposals, therefore, are not akin to many recent forms of nationalisation such as, for example, that effected as regards coal and associated minerals by the Coal Industry Nationalisation Act, 1946.

No reference is to be found in the report to the question of mining subsidence. It may be, of course, that this is not a matter of major significance in relation to the working of MDC minerals. As stated in a previous article (p. 157, *ante*), the report of the Departmental Committee on Mining Subsidence (Cmd. 7637) confined its inquiry to the consideration of the problem of subsidence caused by the mining of coal and omitted to deal with the problem of other mineral interests. If, therefore, it is proposed to adopt the committee's recommendation with regard to setting up a Mining Development Commission, it might be as well to consider the wider aspects of mining subsidence.

As regards the report of the Committee on Mining Subsidence it is notewort[1] *y* that the Minister of Fuel and Power, in reply to a question in the House of Commons on the 28th July, 1949, said that after careful consideration of that report the conclusion had been reached that legislation to implement the whole of the committee's recommendations would involve a number of difficult administrative problems and would have far-reaching financial implications which would require further study. The Minister added, however, that the Government were aware of the need for action to alleviate the most serious hardships which occur owing to subsidence due to the mining of coal, and proposed to introduce legislation as soon as possible to provide a measure of compensation in respect of small dwelling-houses which suffer damage from this cause.

F. A. E.

Mr. Peter Jarvis, of Beeston, who has been blind since birth, has qualified as a solicitor, the culmination of fifteen years of concentrated study.

Mr. Anthony Prince, solicitor, of High Wycombe, is to marry Miss Margaret Walker, Britain's 200 metres Olympic Games finalist.

Taxation

THE RENT CONTROL ACT AND SCHEDULE A TAX

THE Landlord and Tenant (Rent Control) Act, 1949, applies to dwelling-houses within the Rent Acts which were first let after 1st September, 1939. Provision is made for variation of standard rents on application to the tribunal and for reducing or extinguishing the recoverable rent on account of the deduction of the rental equivalent of a premium paid to the landlord. These provisions may have an unexpected effect in relation to the payment of Sched. A tax, arising from the rule that an occupier who has paid Sched. A tax may not deduct from his rent a greater amount than tax at the standard rate calculated on the annual rent (r. 1 of No. VIII of Sched. A).

Consider first a case in which the tribunal has reduced the standard rent, apart from any question of premiums, to a figure which is less than the net annual value of the property as assessed under Sched. A; for example, a newly converted flat, let at £250 per annum, on terms that the landlord was responsible for all repairs and the tenant for payment of rates, might have been assessed at £250 gross, £205 net. Now the tribunal reduces the standard rent to £160. The tenant (assuming that the landlord is not assessed direct) will receive a demand for £92 5s. Sched. A tax on £205 at 9s. in the £, but he will not be entitled to deduct more than £72 (being tax at 9s. on £160) from his rent; the balance of £20 5s. he must bear himself in respect of his beneficial occupation. The question now arises as to whether he has grounds for appeal against the amount of the Sched. A assessment. The gross annual value is based on the rack-rent at which the premises are let fixed by agreement made within the seven years up to the preceding 5th April, or if not so let, on the rack rental value (General Rule of No. I of Sched. A). Possibly the Revenue would contend that the rent "fixed by agreement" is the rent originally agreed and not that determined by the tribunal, but it seems unlikely that they would take their stand on a technical defence of this character. If the original letting has come to an end, there seems no doubt that the rack rental value must be found by reference to the new standard rent, and even if the original tenancy continues, the rack rental value can only be the new standard rent. Accordingly, an appeal should be successful. The person interested in bringing the appeal is the tenant, if he is assessed, since it is on him that tax on the excess of the net annual value above the rent would otherwise fall. If the landlord is assessed direct, it will be for him to bring the appeal.

If the standard rent as determined by the tribunal exceeds the net annual value, but does not exceed the gross annual value, a case for appeal by the landlord may still arise. To ascertain whether this is so, the first step is to look at the terms of the letting under which the tenant holds. If it is provided that the landlord shall be responsible for all repairs and the tenant for the payment of rates, and there are no unusual terms in the agreement, it can be assumed that the correct gross annual value of the premises is the figure of the rent. If, however, the terms of the agreement are otherwise, the figure of the rent must be adjusted to what it would have been had the terms been as mentioned above. For instance, if the letting imposes liability for rates on the landlord, the rates must be deducted from the figure of the rent; if the tenant is liable for all repairs the figure of the rent must be increased by an appropriate percentage, usually 10 per cent.; and after these adjustments have been made the landlord will have discovered the correct figure for the gross annual value of the premises, and if this is less than the gross annual value as assessed he can appeal.

The position must now be considered in those cases where a premium has been paid by the tenant to the landlord. It must be examined from two aspects: first, the question of what tax has hitherto been borne in respect of the premises, and secondly what tax should be borne after the recoverable rent has been reduced or extinguished by setting against it the rental equivalent of the premium. Taking the first aspect, the Sched. A tax will have been paid year by year and (if the original rent was not less than the net annual value) will have been borne by the landlord, either by direct payment, or by deduction from the rent paid by the tenant. The landlord may have been in receipt of an excess rent, and in that event he will have suffered an additional assessment under Case VI of Sched. D. In calculating that excess, account should have been taken of the premium, in the case of short leases (i.e., leases for a term not exceeding fifty years) subject to s. 15 of the Finance Act, 1940, because that section says that the excess rent assessment shall be calculated by reference to the rent and the other terms of the lease, and it seems clear that the receipt of a premium is an "other" term of the lease. Accordingly the landlord will have been suffering tax year by year not only on the rent, but also on the premium, spread over the years of the lease. It may be in many cases that a landlord has not revealed to the income tax authorities the fact that he has received a premium, perhaps because he was unaware of the necessity to do so, but that should not place him in any more favourable position than that of a landlord who has duly made full disclosure. Now assume that the recoverable rent falls to a figure well below the net annual value of the premises, by reason of the deduction of the rental equivalent of the premium as a result of the determination of the tribunal. If the occupier is assessed to Sched. A tax, he is bound to pay it, and he is then entitled to deduct from his rent no more than tax at the standard rate calculated on the annual rent. The tenant will therefore find that, while the Minister of Health has reduced his rent, the Chancellor of the Exchequer has increased his income tax, and he may very reasonably complain of this, unless he happens to be in the position of having so small an income that he is not liable to tax, when his share of the Sched. A assessment can be cancelled. His complaint, however, is not different in quality from that of those taxpayers who have for years suffered the injustice of denial of any tax relief in respect of a premium paid for a lease. The tenant will no doubt seek to have the assessment reduced to the figure of the rent. Will he be able to do so by means of an appeal? Doubtless he can have it reduced to the new figure of standard rent, as explained above, but can he obtain a further reduction to the figure of rent which he is actually paying? At what rent are the premises let, and what is the rack-rent at which they are worth to be let? On the answer to these questions depends the Sched. A assessment. If the landlord were free to let again to a new tenant the value would be the standard rent (adjusted for rates and repairs) without regard to the premium paid by the present tenant. It therefore seems that the standard rent must be the proper basis for determining the annual value under Sched. A, and not the reduced rent which the present tenant is paying. If that is a correct view, there seems no way in which the tenant can avoid the burden of Sched. A tax, if he is assessed as occupier.

It may be, however, that the landlord is assessed instead of the tenant. Now the problem is the landlord's and by the same reasoning it would seem that he has no grounds for an appeal, except in so far as a lower standard rent has been determined. Moreover, it seems that he has no ground for complaint at being required to pay the Sched. A tax, because, although he is receiving no rent or a very small rent, he has received the rent in advance by way of premium, and if anything he is fortunate in being able to spread the tax over at least seven years instead of being required to pay it in a lump sum at the time when he received the premium.

If the landlord is not assessed direct, so that the tenant has to bear the burden of part or the whole of the Sched. A tax, it would appear that the landlord will thenceforward escape tax, at the expense of the tenant, in respect of the rental equivalent of the premium, for it can no longer be said that he is in receipt of an excess rent, and there is no machinery, other than deduction of tax from rent (which is insufficient), whereby the tenant can throw the burden on to the landlord. C. N. B.

A Conveyancer's Diary

A COVENANT WHICH RAN WITH THE LAND

Smith v. *River Douglas Catchment Board* (reported at p. 525, *ante*) is an interesting example of the vitality of some of the ancient principles of our land law; the liability of the modern statutory body who were the defendants in this case was founded on the decision in *The Prior's Case*, given in 1368. The case is interesting also for some observations of a general character made in the course of his judgment by Denning, L.J., which, however, valuable though they may be in regard to the law of contract taken as a whole, do not appear to fit in very easily with some of the rules enunciated in the past in connection with that specialised part of the law of contract which deals with covenants affecting the land.

The defendant board by an agreement under seal agreed with certain landowners whose land adjoined a brook within the area of the board that, in consideration of certain payments to be made by the landowners as a contribution to the proposed works, the board would carry out the works specified in the agreement. These works included the widening and deepening of the brook. It was also agreed that the board should take over the control of the brook and maintain for all time the works when completed. The benefit of these stipulations on the part of the board was not in terms annexed to the various parcels of land owned by the covenantees, but these lands were mentioned in the recitals to the agreement, as was also the object of the arrangement—the prevention of the flooding of these lands in the future.

One of the original parties to the agreement subsequently sold her land to the plaintiff, who took an express assignment of the benefit of his predecessor's covenant with the board. Some time later the banks of the brook in that part of it affected by the agreement burst, owing (as was found) to faulty work on the part of the board, with the result that the plaintiff's land was flooded and damaged. The plaintiff had let the land to a company, the second plaintiffs, who joined in this action against the board. At the trial Morris, J., gave judgment for the defendants on the ground, *inter alia*, that the contracted obligations undertaken by the board in the agreement with the predecessors in title of the first plaintiff did not run with the land so as to enable the plaintiffs to sue on them.

On appeal the plaintiffs had to get over two hurdles before they could succeed. Firstly, it was necessary to show that the benefit of the covenant had been annexed to the land of the first plaintiff's predecessors in title (no point was taken as regards the purported assignment of the benefit of the covenant to the first plaintiff, and it is submitted that this was in any event immaterial). And, secondly, it was necessary to show that the agreement by the board to carry out and maintain the works was a covenant which ran with the land.

The first question was one of construction, and raised no difficulty of principle. No specific authority was cited by the Court of Appeal in support of their conclusion that this covenant was annexed to the land (or, as the court put it, that the parcels of land to be benefited by the agreement were therein sufficiently identified) other than *Rogers* v. *Hosegood* [1900] 2 Ch. 388, but the maxim *id certum est quod certum reddi potest* was considered applicable so as to let in extrinsic evidence for the purpose of identification. *Rogers* v. *Hosegood* was a case of a covenant for the benefit of retained land, but that the court will readily infer the intention to benefit land as a matter of principle in all such cases (and not only in cases of the vendor's retained land) appears clearly enough from the general language used in this connection in that and in other cases—see, e.g., *Re Union of London and Smith's Bank* [1933] Ch. 611, at p. 631.

On the second point, *The Prior's Case* (1368), 1 Sm. L.C. (13th. ed.), 55, is authority for the proposition that an affirmative covenant which runs with the land is enforceable against the original covenantor by the successors in title of the covenantee, whether the covenant was taken on the sale of land by the covenantor or not. As to the qualification that the covenant must be one that runs with the land before the covenantor can be sued upon it in such circumstances, the agreement by the board in the present case seemed to the Court of Appeal (differing on this point from the trial judge) to fulfil both of the alternative requirements adopted by Farwell, J., in *Rogers* v. *Hosegood*, *supra*, where he said (at p. 395) that "the covenant must either affect the land as regards mode of occupation, or it must be such as, *per se*, and not merely from collateral circumstances, affect the value of the land."

This was the end of the case, except that once the liability of the board to the first plaintiff was established another step had to be taken, with the assistance of s. 78 (1) of the Law of Property Act, 1925, to fix the board with liability to the second plaintiffs also.

Denning, L.J., approached the central problem from a different point of view from that adopted by the other members of the Court of Appeal. He related the liability of the board to the general principle that "a man who makes a deliberate promise which is intended to be binding, that is to say, under seal or for good consideration, must keep his promise; and the court will hold him to it not only at the suit of the party who gave the consideration, but also at the suit of one who was not a party to the contract, provided that it was made for his benefit and that he has a sufficient interest to entitle him to enforce it . . ." Having stated the principle, Denning, L.J., went on to consider its application in the case of covenants relating to land. His conclusion on the case was the same as that of his colleagues. As far as covenants affecting land are concerned the principle appears to be stated in terms which are too wide. So stated the principle does not square with such authorities as *Re Ballard's Conveyance* [1937] Ch. 473 (attempted annexation of covenant, indubitably intended to benefit the land, to land part only of which considered capable of being benefited, held void as to the whole). It is clear that these observations must be taken with some reserve in the context of the law relating to covenants affecting land, as must also the learned lord justice's view that the effect of s. 56 (1) of the Law of Property Act, 1925, *pace White* v. *Bijou Mansions, Ltd.* [1938] Ch. 351, is to extend the range of liability on covenants to which the plaintiff is not expressed to be a party, and not merely to ameliorate, so to speak, the consequences of a conveyancer's omission.

* * * * *

The point I had in mind as to the attornment clause in *Dudley and District Benefit Building Society* v. *Emerson* (1949), 93 SOL. J. 183, when I wrote of that decision last week (see p. 535, *ante*), was this: that even if the clause had come into operation in that case before the first defendant let the premises to the second defendant, this circumstance could hardly have assisted the second defendant's contention that he was protected as tenant of the premises by the Rent and Mortgage Interest Restrictions Acts. Most attornment clauses (see, e.g., that in *Dudley and District Benefit Building Society* v. *Gordon* [1929] 2 K.B. 105) provide that the mortgagor is to attorn tenant at a purely nominal rent (10s. *per annum* in the case last mentioned). As the Acts do not apply to a letting at less than two-thirds of the net rateable value of the premises (Act of 1920, s. 12 (7)), it is a little difficult to see what the learned judge had in mind when he said that the clause might have had an important bearing on the case had it become operative.

"A B C"

Landlord and Tenant Notebook

RIGHTS APPURTENANT IN A COAL SHED

"TALL oaks from little acorns grow" may not be a legal maxim, but what the *dictum* seeks to convey was well illustrated by the recent decision in *Wright* v. *Macadam* [1949] W.N. 342, which, though marked with an asterisk, deserves the attention of those concerned with the law of landlord and tenant. For the facts of that case began with the grant of a tenancy for the term of one week of a flat, the grantor being the defendant in the subsequent proceedings and the grantee one of the two plaintiffs. This occurred in November, 1940, and when the term expired the tenant held over under the Rent Acts. The flat was part of a house with a garden, and in the garden was a shed; but it was not until a date early next year that the tenant was given permission to store coal in that shed. When in August, 1943, a tenancy agreement was made, in writing, between the defendant (of the one part) and the two plaintiffs, the second being the daughter of the first, jointly (of the second part), by which the defendant agreed to let them the same flat plus an extra room for the term of one year, no mention was made in the document of the use of the shed. Nevertheless, the plaintiffs did use it as it had been used before. Differences arose in May, 1947, when the defendant told the first plaintiff that an extra 1s. 6d. was to be paid for such use. She "purported" to agree, but her daughter "strenuously" objected, and when the defendant denied the right claimed both joined in a county court action, which they lost, and then in an appeal which they won.

Taken by stages, the reasoning approved by the Court of Appeal was as follows: (1) The document executed in August, 1943, was, for the purposes of the Law of Property Act, 1925, a lease. (2) It was therefore, for the same purposes, a conveyance. (3) As a conveyance, it was deemed to include and convey with the flat all appurtenances, i.e., liberties, privileges, easements, rights and advantages appertaining or reputed to appertain to the flat, or any part thereof, or, at the time of the conveyance, demised, occupied or enjoyed with the flat or any part thereof. (4) The use of the shed for the storage of coal was an appurtenant right within the meaning of that provision. It was on the last-mentioned point that the learned deputy county court judge had decided the case in favour of the defendant, the "right" to use the shed being considered by him merely a temporary and revocable licence.

Taking the four propositions separately: the question of the validity of the first was referred to the Law of Property Act, 1925, ss. 52 (2) (*d*) and 54. The former, after subs. (1) has declared that conveyances of land are void unless made by deed, provides: "This section shall not apply to . . . leases or other assurances not required by law to be made in writing"; the latter first enacts that interests in land created by parol and not put in writing, etc., shall have the force and effect of interests at will only, but goes on to exclude from its operation leases by parol taking effect in possession for a term not exceeding three years, etc. The effect would be that the document executed in August, 1943, created more than an interest at will and that—if it were a conveyance—it would be valid though not under seal. According to the judgment, the two provisions, read in conjunction, made the document a lease; with respect, I would submit that this is somewhat arguable. But s. 205 (1) (xxiii) enacts: "'lease' includes an underlease *or other tenancy*." This provision was new at the time; incidentally, its importance appears to have been overlooked by some text-book editors when dealing with the enforcement against assignees of covenants running with the land.

As to the second link in the chain of reasoning, by the Law of Property Act, 1925, s. 205 (1) (ii), "conveyance" includes "a lease . . . and every other assurance of property or of an interest therein by any instrument, except a will". This has been held not to apply to an agreement for a lease: *Borman* v. *Griffith* [1930] 1 Ch. 493. The agreement examined in that case was, it may be observed, made before the passing of the 1925 legislation, and the interpretation section of the Conveyancing Act, 1881 (s. 2 (v)), in force at the time, insisted on a deed. But I think that the *ratio decidendi* was simply that an agreement to assure is not the same thing as an assurance.

In stating the third proposition I used the language of the Law of Property Act, 1925, s. 62 (1), and it will be seen that by combining different nouns with different verbs the plaintiffs could put their case in many alternative ways. The judgment suggests that the noun "right" and verb "enjoyed" provided them with the best argument, i.e., that in August, 1943, a right to enjoy the use of the shed for the purpose of storing coal was enjoyed with part of the land (i.e., the original flat) conveyed. And the defence, which had impressed the deputy county court judge, was that there never was any right and what was enjoyed was just a temporary licence constituting a "precarious easement."

Burrows v. *Lang* [1901] 2 Ch. 502, illustrated what is meant by a "precarious easement." A property was split into two in 1886. On it was an artificial watercourse and pond, made some eighty years earlier for the purpose of operating a mill, and supplied from a natural stream. An intake sluice regulated the flow. The pond was just on the boundary of one of the new properties. The plaintiff, owner of the other since 1893, watered his cattle at the pond, where cattle had been watered for over fifty years before the division. The defendant, who owned the other, had cut off the supply and fenced in the pond. Farwell, J., considered the essential question to be of intention to be gathered from circumstances and purposes in and for which the watercourse had been made, pointing out that "temporary" might apply to purpose for a long time (see *Arkwright* v. *Gell* (1839), 5 M. & W. 203: sixty years). A man who made a watercourse leading water to a mill-pond for the use of his own mill on his own land, and maintained it at some expense, did so for a temporary purpose.

It was no doubt argued in *Wright* v. *Macadam* that the shed had been constructed for a temporary purpose (and, perhaps by way of emphasising this, the defendant had, apparently, pulled it down since the commencement of the proceedings; at all events, it had ceased to exist), but any argument based on *Burrows* v. *Lang* was met by citing *International Tea Stores* v. *Hobbs* [1903] 2 Ch. 165, decided by the same judge. In that case a conveyance had failed to make any mention of an alleged right of way along a roadway over the defendant's property to the back door of the plaintiffs' premises. The defendant had originally owned both, had let the plaintiffs' premises to a similar concern for twenty-one years from 1891 by a lease silent about the roadway; the lease was assigned to the plaintiffs in 1895, soon after which they bought the freehold. Successive managers employed by the predecessor concern and the plaintiffs had been given permission to use the roadway, and when a dispute arose and became the subject of the action it was argued for the defendant that this was another case of permissive and temporary user and, therefore, of a precarious easement. The learned judge rejected this argument, pointing out that in *Burrows* v. *Lang* he had dealt with a right unknown to the law, namely, a right to take water if and whenever the defendant chose to put some into a particular pond. "The real fact is that you do not consider the question of title to use, but the question of fact of user . . ."

The right to use the shed in the case before them, according to the judgment of Jenkins, L.J., was one which could readily be included in a lease, one which could have been in the contemplation of the parties in August, 1943, and one known to the law. Damages were awarded accordingly.

R. B.

HERE AND THERE

ENTERTAINING THE PUBLIC

To the general public and the ordinary reasonable man, the man on the Clapham omnibus, the law means litigation and the sittings of the courts, with the curtain up on the public performance, the forensic stars in their courses and the reporters writing like mad in the press box. He has only the vaguest conception of the laborious process of producing this thrilling drama or of that which goes on unrecorded behind the scenes. Nor is there any wide realisation or appreciation of (or, if it comes to that, interest in) the mute, inglorious, harmless, necessary work that goes on in a lawyer's office quite apart from any litigation at all. So when the curtain falls on the theatre of operations in the Strand, the simple minded public has a mental picture of all the lawyers going into a sort of Sleeping Beauty trance only to be awakened by the kiss of the returning Lord Chancellor in October and the trumpet of St. Michael heralding the opening of the term yet piously dedicated to his name. Still, true it is that in the heat of summer the stream of legal activity flows underground, like the River Mole at Mickleham in dry weather, and, flowing underground, it works unseen. Well, since there's no drama in the courts, let's seek it elsewhere and try the world of entertainment proper. Beautiful young actress refuses five-year film contract! Why on earth? Well, as a matter of fact, because she wants to be a barrister. Miss Elizabeth Sellars, who has been seen appreciatively in "Floodtide" and is about to be seen in "The Intruder," has also passed two of her examinations as a student of Lincoln's Inn. To be sure of having plenty of time to work for the next she has submitted to a self-denying ordinance in respect of the calls of filmland and its siren voices. Nor are they the only voices that she hears. A little while ago a newspaper with the wonted artistic inconsequence of Fleet Street gravely announced: "She is reading for the Bar and is also a student of Chinese."

LAW AND STAGE

THE law and the stage do not very often meet in the same person, but Leo Genn (so impressive, you remember, as the Constable of France in "Henry V") managed to unite them. He was called to the Bar by the Middle Temple in 1928, and has since managed to add a third profession as a soldier. By the end of the late hostilities he was Lieutenant-Colonel L. J. Genn and found himself set to work on war crimes investigation in Germany, including the preparation of the indictments of Josef Kramer and others responsible for the Belsen camp. At this period he made a brief and unpremeditated return to his former profession, when a member of Gordon Harker's "Frightened Lady" cast, put on to entertain the troops, could not play and he stepped into the breach, taking over the original Emlyn Williams part at short notice. Practising lawyers seem strangely little addicted to amateur theatricals. Probably they are able (the Bar in particular) to satisfy any dramatic tastes they may have, or any fondness for dressing up, within the limits of the actual pursuit of their profession. It is curious, however, that their theatrical tradition should have vanished so completely. The great days when the masques of the Inns of Court and Chancery were as much part of their way of life as the practice of the law might have been expected to send at least a ripple down the centuries. In fairly recent times the only "full time" lawyer I can remember going in for amateur theatricals in a big way was Judge Arthur Thesiger, who retired in 1947. I am thinking of the drama proper for I do not forget Judge Wethered's magic or the impersonations and other variety turns of Mr. Marston Garcia.

LEGAL DRAMATISTS

LINKS between the law and the drama are far more frequent on the writing side. Sir Patrick Hastings, K.C., in the course of a long and enthusiastic connection with the theatre, has turned out three plays, starting with "The River" in 1925, and including one really notable success—"The Blind Goddess," a couple of years ago. "Escort" in the middle of the war had more than normal difficulties to contend with. Mr. Edward Wooll, K.C., the Recorder of Carlisle, got well away in 1934 with "Libel" and a sensational court scene. Nor should it be forgotten that Sir Gerald Dodson, the Recorder of London, was part author of a successful light opera (lyrics and book) "The Rebel Maid," said to have been first thought out in a submarine during the first Great War. Gilbert, of course, when he wrote "Trial by Jury" was working on personal professional experience. The law in Galsworthy's plays is that of a lawyer. And then, of course, there's always Bacon—or was it Shakespeare after all?

RICHARD ROE.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL*]*

Agricultural Holdings: Mortgagor's Power of Leasing

Sir,—We are concerned with the effect of para. 2 of Sched. VII to the Agricultural Holdings Act, 1948. The effect of the amendment made by this paragraph is that advances upon the security of a farm which is to be owner-occupied must be considerably restricted. In our opinion valuations for such advances must be on the basis that the mortgagor can let the property and no account must therefore be taken of the vacant possession value.

We find that this provision is causing considerable hardship to farmers who are purchasing farms for their own use, as they need much more capital than a few years ago for the purchase of their live and dead stock. All these farmers would willingly contract not to let their holdings, if by so doing the amount that they could obtain upon mortgage would be increased. Unfortunately the provision to which we have referred prevents any such contract being effective.

We should be interested to know the views of your contributors upon this point, as it is one of considerable importance at the present time.

Northampton. PHIPPS & TROUP.

["A B C" writes: It will be interesting to see whether this difficulty is general or not. It is true that it has been a very usual practice to exclude the powers of leasing conferred by s. 99 of the Law of Property Act, 1925, but it must not be overlooked that these powers are in any case hedged about with restrictions which, in the normal case at least, should provide the mortgagee with all the protection he can reasonably require, e.g., the best rent must be reserved (s. 99 (6)), and the lease must contain a covenant to pay the rent and a condition of re-entry on non-payment (s. 99 (7)). On the face of it, the result of these provisions should be that the value of the security if vacant possession is guaranteed by the exclusion of the statutory powers of leasing should not greatly exceed the value on the footing that the mortgagor is at liberty to create a lease which will bind the mortgagee. But in abnormal times such as we are living through abnormal values attach, for reasons it is often difficult to understand, to different types of property. One thing is clear: the provisions of Sched. VII to the Act of 1948 are such that no useful purpose is likely to be served by any attempt to circumvent them.]

Joint Accounts

Sir,—With reference to Mr. Elkan's letter in your issue of 6th inst., where the first-named holder is a trustee of nearly one hundred trusts holding between them thousands of different investments, the preparation of a card index system such as Mr. Elkan suggests would be a long and complicated job requiring the attention of a skilled clerk; moreover a lot of time would be involved in keeping the index up to date, and I fail to see why the holder himself should be put to this trouble and expense in order to save a trifling amount of additional trouble to the company secretary. After all, it is not asking the company secretary a great deal to have two or three names typed out instead of just one.

A. H. HATTON.

Warrington.

Children and Crime

Sir,—The statistics published in THE SOLICITORS' JOURNAL of the 13th August, at p. 520, are indeed more than disturbing and call for urgent measures to check the moral rot which is evident.

There is little doubt that in order to be an effective deterrent, particularly in the case of children and young persons, punishment must be both real and appropriate to a particular crime, but the fundamental root of the matter is the home influence, or lack of it.

Even in a Welfare State parents still have obligations towards their children and the community. If they neglect to control their children or to bring them up in a proper and Christian-like manner they should be induced to do so. I feel that the introduction of an effective system of concurrent punishment, both of the delinquent juvenile and of his parents or guardian, would bring home to the latter their responsibilities, and result in a marked decrease in juvenile crime.

Tenbury, Worcs. T. F. HIGGINSON.

NOTES OF CASES

COURT OF APPEAL

APPLICATION TO VARY MARRIAGE SETTLEMENT

Egerton *v.* Egerton

Bucknill, Asquith and Denning, L.JJ.
28th June, 1949

Appeal from Barnard, J. (93 SOL. J. 320).

By a marriage settlement, the fund of which yielded an income of £650 gross, it was provided, *inter alia*, "After the death of the settlor, if the said intended marriage . . . shall at the date of his death be then subsisting and undissolved and if [the wife] shall be living at the expiration of seven days after the death of the settlor, the trustees shall . . . pay the income of the trust fund . . . to [the wife] during her life without power of anticipation during any coverture . . ." Subject to that provision the settlor was empowered by deed or will to appoint in favour of any other wife who might survive him all or part of the income of the fund. The parties were married in 1928. In 1947, the wife obtained a decree *nisi* for adultery. Two days after decree absolute the husband married again. Shortly afterwards he died having by will exercised the above-mentioned power of appointment by directing that the settled fund should be held on trust for the second wife and others. The second wife had no means of her own. The first wife enjoyed an income of £1,100 a year. On her application for a variation of the settlement, the registrar recommended that the settlement should be varied, in spite of the appointment contained in the husband's will, by paying to the first wife a proportion of the income appointed for the benefit of persons other than the second wife. The first wife sought to uphold that recommendation before Barnard, J., who, however, dismissed the application.

BUCKNILL, L.J., gave reasons, with which ASQUITH, L.J., agreed, why the judge's decision must stand.

DENNING, L.J., said that it was not lawful for an engaged couple to make an agreement for the financial provisions to apply between them in case they should separate after marriage; for it was against public policy that they should anticipate that they might become separated. They were, however, apparently entitled to anticipate that they might become divorced, and a settlement providing for what should happen in that event was not contrary to public policy. This seemed anomalous, and was only to be tolerated because there was the safeguard against abuse that, after pronouncing a decree of divorce, the court had an overriding power to vary such a settlement so as to do what was just. Here there was no abuse which needed to be corrected: the husband had provided the fund for the settlement. If the wife had been the guilty party, there would have been nothing unjust in the deed. As the innocent party, she had had it in her option to petition for either judicial separation or divorce. If she had proceeded for judicial separation, her rights under the deed would have remained intact. She had, however, chosen to proceed for divorce. That enabled the husband to remarry, and he became liable to maintain a second wife. The first wife had adequate means of her own, whereas the second wife had none. The first wife had lived on her own means for eighteen years, and there was no reason why she should now get more at the expense of the second wife. Appeal dismissed.

APPEARANCES: *Karminski*, K.C., and *R. J. A. Temple* (*Peacock and Goddard*); *Beyfus*, K.C., and *J. R. Adams* (*Grover, Humphreys and Boyes*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

LANDLORD AND TENANT: BREACH OF COVENANT TO REINSTATE ALTERED PREMISES

James *v.* Hutton and Others

Lord Goddard, C.J., Tucker and Singleton, L.JJ.
29th June, 1949

Appeal from His Honour J. G. Trapnell, the Official Referee.

The plaintiff sub-let a shop to the first defendant and granted him a licence to alter the existing shop front on conditions as to reinstatement on termination of the lease. That defendant assigned the lease to the defendant company, to whom the plaintiff granted a similar licence by an agreement stated to be supplemental to that in which the licence was granted to the first defendant. By the supplemental licence the company undertook on termination of the lease to restore the premises to the same state as they were in before the alterations and works had been executed by the company, or, at the option of the plaintiff, to the same state as they were in before the principal licence had been granted and as if the works and alterations thereby or by the principal licence authorised had not been made. No work was done under the principal licence, so that only the supplemental licence had to be considered. The company altered the shop front at a cost of £3,300. When the company ceased to be the plaintiff's sub-tenants, the old shop-front had not been restored. The official referee, being of opinion that no provision in the Landlord and Tenant Act, 1927, was applicable, assessed the damages according to the common law at £4,300, basing himself on the cost of effecting the reinstatement to-day, though he found that the plaintiff would not herself restore the premises to their original state. The defendants appealed.

LORD GODDARD, C.J., giving the judgment of the court, said that no evidence was given that the premises were made less valuable by reason of the alteration to the shop front. What, then, was the measure of damage applicable to the breach of a covenant to restore on request, when the only evidence was that there had been no compliance with that request? The general rule as to damages for breach of contract ought, in his opinion, to be applied: the damage actually suffered should be ascertained. To apply the rule as to the measure of damage for a breach of contract to deliver up a house in repair to this case would be wrong: there was no true analogy between the two cases. In that case the landlord must suffer some damage at least so long as the house remained in existence. Instead of getting a house in a perfect state of repair he got one which was dilapidated. Presumably a house in good repair would fetch more than a house which was out of repair. The measure of damage in that case was the cost of the work necessary to put the house into repair: see *per* Lord Esher, M.R., in *Joyner* v. *Weekes* [1891] 2 Q.B. 31. The official referee thought that it would be a sheer waste of money if the work were done. The plaintiff was not entitled for the alleged breach of covenant to more than nominal damages, which they (their lordships) assessed at £1. In the view taken by the court of the common-law rights of the parties, it was unnecessary to consider the Act of 1927; but they had some difficulty in seeing why s. 19 (2) did not apply. By that subsection a covenant against making an improvement without licence or consent was to be subject to a proviso that consent was not to be unreasonably withheld. They thought that the word "improvement" there meant an improvement from the tenant's point of view. Here in fact consent was given. There was no evidence here whether the improvement did or did not add to the letting value of the holding. If it did, the subsection would prevent the landlord's requiring the tenant to reinstate, and in any case such a requirement would have to be reasonable, which here it would not be—at any rate there was no evidence to show that it was reasonable. Appeal allowed.

APPEARANCES: *Ward*, K.C., and *Ryder Richardson* (*Tudor and Rowe*); *Mitchison*, K.C., and *Morgan Blake* (*Freke Palmer, Romain & Romain*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVORCE: VARIATION OF SETTLEMENT

Johnson *v.* Johnson

Bucknill, Asquith and Denning, L.JJ. 30th June, 1949

Appeal from Ormerod, J.

The appellant and the respondent, her husband, were married in April, 1935. In May, 1943, they executed a deed of separation which recited that the husband had ceased to live with the wife against her wishes and provided that he would pay her 30s. a week maintenance during her life. The husband later committed adultery and the wife was granted a decree absolute in February, 1946. The husband did not within two months apply under s. 192 of the Supreme Court of Judicature (Consolidation) Act, 1925, for variation of the deed. In June, 1946, the wife married again. The husband later did the same. In 1948 the wife brought an action for arrears of maintenance under the deed of May, 1943, at £1 10s. a week from the date of the decree absolute. The master gave judgment for the arrears to the date of the wife's remarriage, but adjourned consideration of the claim for arrears as from that date pending an application in the Divorce Division for variation of the separation deed. On the husband's application made out of time with leave, the registrar recommended that maintenance should cease from the date of remarriage in June, 1946. Ormerod, J., thereupon varied the settlement by inserting a

dum sola clause providing that the amount was to be paid to her while the wife was unmarried. The wife appealed.

DENNING, L.J.—BUCKNILL and ASQUITH, L.JJ., agreeing—said that it was argued for the wife that the application for variation of the settlement ought to be considered as if it had been in time, that was, within two months of the date of decree absolute and so before the date of either remarriage. That argument would not bear examination. The powers of the court under s. 192 were unrestricted by any procedural rules about time. As was the case in the assessment of damages long after an accident, the contingencies, which had become actualities, were to be taken into account as actualities. The court must determine an application to vary a settlement under s. 192 on the facts as known at the time when the application was heard, and not on those as known within two months of the decree absolute with their hypothetical contingencies. While the innocence of the wife was a matter for consideration, the material fact was that she had married again and had a new husband to support her. As Lord Greene, M.R., had pointed out in *Tomkins* v. *Tomkins* [1948] P. 170; 92 SOL. J. 111, it was relevant that, if the settlement were allowed to stand unvaried, the moneys payable under it might go into the ordinary household expenses of a new establishment. Appeal dismissed.

APPEARANCES: *E. W. Phillips* (*Vivash, Robinson & Co.*); *P. A. Harmsworth* (*W. B. Blackwell & Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

MAINTENANCE: RESIDENCE OF SPOUSES UNDER ONE ROOF

Bartram *v.* Bartram

Bucknill, Asquith and Denning, L.JJ. 30th June, 1949

Appeal from Judge Carey Evans sitting in Divorce at Norwich.

In 1943 the appellant husband, for business reasons, left the house in which he and the respondent, his wife, who was also working in the same town, were living, and went to live in another house, in which his mother was living, in that town. The wife continued to live in their old house. The husband sold that house and in March, 1947, the wife went to live in the house to which her husband had gone. She remained there until September, 1948. On 24th November, 1948, the husband filed a petition for the dissolution of the marriage on the ground that his wife had deserted him. The wife entered no appearance. The commissioner held that the wife had deserted the husband in 1943, but that, on the principle in *Hopes* v. *Hopes* (1948), 92 SOL. J. 660; 64 T.L.R. 623, her desertion was interrupted when she went to live at the same house as her husband in 1947, and that she had not therefore deserted him for the statutory period of three years before the presentation of the petition. He accordingly dismissed the petition. The husband appealed.

BUCKNILL, L.J., ASQUITH, L.J., agreeing, said that the commissioner was right in holding that the wife, by her conduct, deserted the husband in 1943. She went to live as a lodger at the house where he was because no other accommodation was available and she wished to continue her work. She then had as little as possible to do with her husband, treating him as another lodger in the house whom she cordially disliked, but sometimes she sat at the same table to eat. The question was whether that living in the same house as her husband broke the desertion which started in 1943. The commissioner had not given sufficient weight to the essential difference between the present case and *Hopes* v. *Hopes*, *supra*. There the husband failed because he never proved actual separation but only an intention to desert. In the present case the husband had established desertion by the wife for a considerable period. That desertion must continue until it was proved that it had been brought to an end by a resumption of cohabitation. In *Mummery* v. *Mummery* [1942] P. 107, at p. 110, Lord Merriman, P., said that a resumption of cohabitation involved a bilateral intention on the part of both spouses so to do. If the facts did not establish an intention on the part of the deserting spouse to set up a common matrimonial home, the desertion continued. On the facts of the present case the wife had no intention of bringing her desertion to an end. The appeal should be allowed.

DENNING, L.J., agreeing, said that, once the period of desertion had begun to run, it was not broken by attempted reconciliation unless a true reconciliation were effected. Any other view would hamper attempts at reconciliation. Appeal allowed.

APPEARANCES: *Barry*, K.C., and *Alpe* (*Ford, Michelmore, Rose & Wilkins* for *Greenland, Houchen & Co.*, Norwich).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

VENDOR AND PURCHASER: DAMAGES FOR REPUDIATION OF CONTRACT: RESCISSION

Thorpe *v.* Fasey

Wynn Parry, J. 8th July, 1949

Action.

On 3rd August, 1937, the plaintiff sold the defendant approximately 157 acres of freehold land for £38,000, of which £1,400 was to be paid as a deposit on the signing of the contract, and the balance in four instalments. The land, which was to be built up, was divided into four parcels, and it was agreed that when an instalment was paid, a specified parcel of land should be conveyed to the defendant. The latter paid the deposit and the first instalment (which amounted to £12,600), and on 27th October, 1937, the first parcel of land was conveyed to him, but when the second instalment (of £8,000) was due on 3rd October, 1939, he was unable, through the incidence of the war and the restrictions on building, which existed ever since, to make any further payment under the contract. During the war the parties left the matter in abeyance, but on 22nd February, 1946, the local council notified the defendant of its intention to apply to the Minister of Town and Country Planning for his consent to a revocation of the interim development order, and, following the Minister's decision, the council, on 15th January, 1948, revoked that order and in February, 1948, communicated that decision to the defendant's agent. In the meantime correspondence took place between the parties and their solicitors, and eventually the plaintiff sued the defendant for specific performance and for damages for breach of contract in addition thereto or, alternatively, in lieu thereof, and in the further alternative he claimed rescission of the agreement. The plaintiff did not pursue his claim for specific performance (which was not resisted by the defendant) because in the circumstances such a claim would not have borne fruit, and pressed as his main claim the claim for damages.

WYNN PARRY, J., said that as regards the main claim of the plaintiff, it was not every breach of contract that gave rise to damages, but the only breach that would support such a claim was a breach which amounted to a repudiation by the defendant of the contract, the repudiation being accepted by the plaintiff. No distinction existed between the nature of repudiation which was required to constitute an anticipatory breach and that which was required where the alleged breach occurred after the time of performance. It was, therefore, not fatal to the plaintiff's case that he had not made time of the essence of the contract (as he could have done), provided he could demonstrate that the evidence disclosed that the defendant was unable or unwilling to perform the contract at all (*Harold Wood Brick Co., Ltd.* v. *Ferris* [1935] 2 K.B. 199). On a fair reading of the correspondence between the parties, it was not possible to find any intention on the part of the defendant to repudiate the contract, and consequently the claim of the plaintiff for damages at common law failed. As regards the plaintiff's alternative claim for rescission, Lord Ellenborough, in *Hunt* v. *Silk* (1804), 5 East 449, regarded it as a well-established general principle that where a contract was to be rescinded at all, it must be rescinded *in toto* and the parties put *in statu quo*. In the present case, upon the true construction of the contract, there was only one contract to buy approximately 157 acres of land for a total price of £38,000, and it was impossible to say that the document contained, in effect, four contracts relating to the sale of four plots of land at specified prices; therefore it was not possible to say that when the conveyance of the first plot was carried out there remained a contract which could stand by itself, so far as the relief of rescission was concerned. Action dismissed.

APPEARANCES: *Gray*, K.C., and *Elverston* (*Elvy Robb & Co.*); *R. W. Jennings*, K.C., and *Hewins* (*Payne & Co.*).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

SALE OF LAND: CONSTRUCTION OF CONTRACT: MEANING OF "WAR DAMAGE"

Armitage *v.* Inkpen

Vaisey, J. 13th July, 1949

Adjourned summons.

On 14th July, 1945, the vendor (applicant) sold the purchaser (respondent) a bungalow by auction. The particulars of sale contained the words "War Damage" in large print, followed by the following sentence in smaller print: "Any sums to be received as compensation from the requisite Government Departments shall belong and be paid to the vendor." The

bungalow had never been damaged by enemy action or otherwise suffered statutory war damage within the meaning of the War Damage Act, 1943, but at the time of the sale it was requisitioned by the Government and a claim arose under the Compensation (Defence) Act, 1939. The question between the parties was whether upon the true construction of the contract the sum received by or payable to the purchaser by way of compensation under the Act of 1939 belonged to the vendor or purchaser.

VAISEY, J., said that the issue raised a simple and pure point of construction. Did the words in question extend to compensation properly so-called under the Act of 1939 or were they limited to what was statutorily defined as war damage under the Act of 1943? The prefatory or marginal words "War Damage" were not very well chosen; they were in the nature of shorthand. If there had been some war damage *and* some claim for compensation under the Compensation Act, the words would have covered both. The fact was that only one such claim was leviable, and there was no doubt that the words were apt to cover that; in fact they were more apt to cover that than war damaged property so-called, because the payments which fell to be made to the subject in respect of requisitioning were in the strictest sense, in the technical and statutory sense, compensation. In his (his lordship's) judgment, on the true construction of the contract, the sum which had been received or could be received by the purchaser as compensation under the Act of 1939 belonged to and had to be paid to the vendor.

APPEARANCES: *L. J. Solley* (*H. L. Lumley & Co.*); *J. A. Wolfe* (*Faithful, Owen & Fraser*, for *Archibald C. Forman*, Twickenham).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

STOLEN MOTOR CAR: LIMITATION

R.B. Policies at Lloyd's *v.* Butler

Streatfeild, J. 25th June, 1949

Preliminary point of law.

The plaintiffs claimed delivery of a car in the defendant's possession. The defendant contended that the cause of action had arisen more than six years before the issue of the writ, and that the action was therefore barred. The plaintiffs alleged that the car was feloniously stolen from its true owner on 27th June, 1940. The theft was reported to the police, but in spite of police inquiries the thief was never discovered and no person was ever charged criminally with the theft. Thereafter the plaintiffs, the insurers of the car, paid the owner's claim for its value in full, and the owner transferred the legal ownership of the car to them. Nothing was known to the plaintiffs of the whereabouts of the car until January, 1947, when as a result of information from the police they discovered it in the defendant's hands under a different registration number. The plaintiffs denied that a cause of action accrued to them or to the owner on 27th June, 1940, so that the defendant could rely on the Limitation Act. The defendant contended that a cause of action accrued to the true owner, from whom the plaintiffs derived their title, for detinue or conversion against the person or persons who stole the car, and that that cause of action accrued on or about 27th June, 1940. That issue was now tried as a preliminary point.

STREATFEILD, J., said that this was yet another case in which one or other of two innocent parties must suffer. The car had, quite innocently, come into the possession of the defendant through a long line of intermediate purchasers. By s. 3 (1) of the Limitation Act, 1939, the cause of action must be traced back to the time of the original conversion or wrongful detention. Clearly an action could have been brought at once against the original thief if his identity had been known. In Halsbury's Laws of England (2nd ed., vol. XX, p. 618) it was stated that a cause of action could not accrue unless there were a person in existence capable of suing and another person in existence who could be sued, but that a person in existence was not the same thing as a person who could be identified. In his (his lordship's) view the fact that the person who had committed a tort could not be discovered did not prevent the time from running, and in the present case the cause of action accrued at the time of the theft although the owner of the car was, unfortunately, unable to enforce it. The preliminary point must be decided in favour of the defendant. That disposed of the whole action. Judgment for the defendant.

APPEARANCES: *F. Atkinson* (*Gibson & Weldon*, for *John Whittle, Robinson & Bailey*, Manchester); *Hart Jackson* (*Peacock and Goddard* for *Barlow, Parkin & Co.*, Stockport.)

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY

PROBATE: REBUTTAL OF EVIDENCE OF ATTESTING WITNESSES

***In re* Vere-Wardale, deceased**

Willmer, J. 29th June, 1949

Question of evidence arising in a probate action.

The two attesting witnesses to a will said in evidence that they signed the will before the testatrix had done so, in which case the will would not have been duly attested in accordance with the Wills Act, 1837. It was sought to call evidence to rebut those statements. The attestation clause read: "Signed by the testatrix in our joint presence and by us in her presence and the presence of each other."

WILLMER, J., said that it was argued for the plaintiff that the attesting witnesses' evidence concluded the matter. That contention was based largely on the submission that no presumption of due attestation arose because of the peculiar wording of the attestation clause. His lordship referred to *Young* v. *Richards* (1839), 2 Curt. 371; *Burgoyne* v. *Showler* (1844), 1 Rob. Ecc. 5, and to the *dictum* in *Wright* v. *Rogers* (1869), L.R. 1 P. & D. 678, at p. 682 that "where . . . both the witnesses swear that the will was not duly executed, and there is no evidence the other way, there is no footing for the court to affirm that the will was duly executed," and said that the important words there were, "and there is no evidence the other way." If it were not competent to call other evidence in addition to that of the attesting witnesses those words would have been otiose. As for the attestation clause no particular form of words was required for it, as the statute indeed said. The attestation clause here appeared to be closely in accordance with the common Key and Elphinstone precedent. In the circumstances, no inference could be drawn from the peculiar wording of the clause. The object of imposing the strict formalities required by the Wills Act, 1837, was that of preventing fraud. The court must do all that it could to see that no fraud was perpetrated. To exclude the further evidence to be adduced could only assist the possibility of the perpetration of fraud. Evidence admitted.

APPEARANCES: *Richmount* (*Daybell & Lynde*); *Skone James* (*Rawlinson & Son*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

SURVEY OF THE WEEK

STATUTORY INSTRUMENTS

Bexhill Water Order, 1949. (S.I. 1949 No. 1532.)

Biscuits (Prices) (Amendment) Order, 1949. (S.I. 1949 No. 1512.)

Chocolate, Sugar Confectionery and Cocoa Products (Amendment) Order, 1949. (S.I. 1949 No. 1524.)

Control of Iron and Steel (No. 73) Order, 1949. (S.I. 1949 No. 1520.)

Dried Fruits (Amendment) Order, 1949. (S.I. 1949 No. 1513.)

Electricity Arbitration Tribunal (Scotland) Rules, 1949. (S.I. 1949 No. 1514.)

Food Rationing (General Provisions) (Amendment) Order, 1949. (S.I. 1949 No. 1526.)

Food (Points Rationing) (Amendment No. 6) Order, 1949. (S.I. 1949 No. 1528.)

Gloves (Manufacture and Supply) (Amendment) Order, 1949. (S.I. 1949 No. 1507.)

Great Yarmouth Water Order, 1949. (S.I. 1949 No. 1541.)

Hat, Cap and Millinery Wages Council (England and Wales) Wages Regulation (Holidays) Order, 1949. (S.I. 1949 No. 1533.)

Imported Canned Fish (Maximum Prices) (Amendment) Order, 1949. (S.I. 1949 No. 1527.)

Ipswich - Newmarket - Cambridge - St. Neots - Bedford - Northampton-Weedon Trunk Road (Little Houghton By-Pass) Order, 1949. (S.I. 1949 No. 1531.)

Isle of Wight Rural District Council Water Order, 1949. (S.I. 1949 No. 1537.)

Knitted Goods (Manufacture and Supply) (Amendment No. 9) Order, 1949. (S.I. 1949 No. 1504.)

Labelling of Food (Amendment No. 2) Order, 1949. (S.I. No. 1536.)

Lochmaddy Pier Order, 1949. (S.I. 1949 No. 1516.)

National Insurance (Classification) Amendment (No. 2) Regulations, 1949. (S.I. 1949 No. 1518.)

Nut Kernels (Amendment) Order, 1949. (S.I. 1949 No. 1514.)

Oldham and Rochdale Water Order, 1949. (S.I. 1949 No. 1534.)

Probation (No. 2) Rules, 1949. (S.I. 1949 No. 1539 (L.15).)

Pulse (Amendment) Order, 1949. (S.I. 1949 No. 1525.)

Rationing (Personal Points) Order, 1949. (S.I. 1949 No. 1534.)

River Teign Drainage District Order, 1949. (S.I. 1949 No. 1521.)

River Teign Drainage District (Appointed Day) Order, 1949. (S.I. 1949 No. 1522 [printed with S.I. 1949 No. 1521 as one document].)

Tapioca and Sago (Revocation) Order, 1949. (S.I. 1949 No. 1515.)

Utility Cloth and Utility Household Textiles (Maximum Prices) (Amendment) Order, 1949. (S.I. 1949 No. 1510.)

Waste Paper and Waste Fibrous Materials (Prices and Acquisition) Order, 1949. (S.I. 1949 No. 1535.)

NOTES AND NEWS

Honours and Appointments

Mr. Registrar PARTON has been appointed Chief Bankruptcy Registrar as from 6th October on the retirement of Mr. Registrar Kean. Mr. THOMAS CUNLIFFE has been appointed a Registrar in Bankruptcy of the High Court of Justice with effect from 7th October, 1949.

Miscellaneous

Readers are asked to note that the offices of the Transport Arbitration Tribunal have now been moved to 9 Belgrave Square, London, S.W.1.

Wills and Bequests

Mr. R. A. Daw, solicitor, of Exeter, left £11,821, net personalty £11,506.

Mr. John Wignall Hodson, retired solicitor, of Fleetwood, left £28,807, net personalty £28,627. His bequests included £100 to Mr. J. S. Dixon, who was articled to him, and £100 to Mr. G. C. Minshulland and £50 to Mr. P. Fish, his former clerks. Mr. Hodson also made a number of charitable bequests.

Mr. R. McDonald, solicitor, of Plymouth, former clerk to the Plymouth Magistrates, left £11,041, net personalty £10,387.

Mr. J. H. Milner, solicitor, formerly of Leeds, left £17,205, net personalty £16,521.

Mr. A. Neill, solicitor, of Salford, left £77,168, net personalty £76,936.

Mr. T. S. Steel, solicitor, of Croft, near Warrington, left £28,062, net personalty £27,155.

SOCIETIES

MANCHESTER LAW SOCIETY

The annual general meeting of the MANCHESTER LAW SOCIETY was held on 28th July, 1949, when the following officers were elected: President: Mr. N. C. O'Brien; Vice-President: Mr. J. F. Bentley; Honorary Treasurer: Mr. W. E. M. Mainprice; Honorary Secretary: Mr. W. G. F. Ballantyne.

The annual report was presented to the meeting and adopted and included a lengthy record of the continuing efforts of The Law Society to obtain a disciplinary rule, under the Solicitors Act, 1936, making it an offence to charge less, for conveyancing work, than the minimum scale adopted, for the area in which the property lay, by the local law society, and indicating the part played by the Manchester Law Society, and their attitude to the matter generally.

In the customary speech of the retiring President, Mr. J. Arnold Hancock spoke of the hardship that lack of money had hitherto inflicted on those who sought the enforcement or protection of legal rights and welcomed the long over-due relief that the Legal Aid and Advice Bill would provide. He urged his brother solicitors in Manchester, with their proud record, not only under the Poor Persons Procedure but with their old-established Poor Man's Lawyer Association, to respond and ensure the efficient working of the Act.

OBITUARY

MAJOR B. CLARKSON

Major Bairstow Clarkson, solicitor, of Keighley, died on 17th August, aged 64. He was admitted in 1907. He had been Clerk to Keighley Rural District Council, Oxenhope District Council, and Keighley, Bingley and Shipley Joint Hospital Board.

MR. T. W. COCKERAM

Mr. Thomas William Cockeram, solicitor, of Abingdon, died recently at the age of 56. He was admitted in 1931.

MR. W. DAVIES

Mr. William Davies, solicitor, of Woking, died at Cape Town, South Africa, on 2nd August, aged 71. Mr. Davies, who was admitted in 1909, was clerk to the justices of Woking Petty Sessional Division from 1910 to his retirement in 1948.

MR. P. GIFFORD

Mr. Patrick Gifford, solicitor, of Castle Douglas, Kirkcudbrightshire, died on 6th August, aged 83.

MR. S. E. H. KILNER

Mr. Samuel Eli Hugo Kilner, London solicitor, died on 7th August, aged 83. Mr. Kilner was admitted in 1895.

MR. P. H. MONK

Mr. Philip Henry Monk, retired solicitor, of Saltburn-by-the-Sea, died on 9th August, aged 79. Mr. Monk, who was admitted in 1898, retired only last year.

MR. J. J. OLIVER

Mr. James John Oliver, retired solicitor and banker, of Mayfield, died on 2nd August.

MR. J. T. PRIESTLEY

Mr. John Temple Priestley, solicitor, of Hove and formerly of Blackwood, Mon, died recently at Hove. He was admitted in 1909.

MR. G. E. M. SKUES

Mr. G. E. Mackenzie Skues, retired solicitor, of Beckenham, died on 9th August, aged 90. Mr. Skues, who was admitted in 1884, retired from practice in 1940. He was acknowledged to be the senior angler of his day and was the author of a number of books on this sport and had been a regular contributor to numerous journals.

MR. J. S. SNOWBALL

Mr. John Stanley Snowball, M.C., registrar of Scarborough County Court, died recently at Scarborough, aged 59. He was admitted in 1919.

MR. G. H. WATSON

Mr. George H. Watson, Darlington's oldest practising solicitor and magistrates' clerk for 40 years, died on 10th August, aged 71. He was admitted in 1902.

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